

## 48A C.J.S. Judges § 2

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### I. In General

#### A. Definitions and Distinctions

##### 1. In General

##### § 2. Ordinary

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#### West's Key Number Digest

West's Key Number Digest, [Judges](#) 

**Ordinary is a civil law term for any judge who has authority to take cognizance of causes by his or her own right and not by deputation.**

Ordinary is a civil-law term, from the Latin ordinarius,<sup>1</sup> for any judge who has authority to take cognizance of causes in his or her own right and not by deputation.<sup>2</sup> By the common law, it refers to one who has ordinary or exempt and immediate jurisdiction in causes ecclesiastical.<sup>3</sup> It indicates the higher judicial office in probate or other ecclesiastical jurisdictions in opposition to that of a subordinate official, extraordinarily appointed, to exercise such jurisdictions.<sup>4</sup>

In some jurisdictions, the term is defined as a probate judge and is used only in that sense.<sup>5</sup> In still other jurisdictions, an ordinary is considered as a judicial officer,<sup>6</sup> a judge,<sup>7</sup> or one exercising judicial authority.<sup>8</sup> In some instances, an ordinary of a county is a county officer.<sup>9</sup>

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## Footnotes

- 1 N.Y.—[In re Martin's Will](#), 80 Misc. 17, 141 N.Y.S. 784 (Sur. Ct. 1913).
- 2 S.C.—[Hays v. Harley](#), 8 S.C.L. 267, 1 Mill 267, 1817 WL 618 (S.C. 1817).
- 3 S.C.—[Hays v. Harley](#), 8 S.C.L. 267, 1 Mill 267, 1817 WL 618 (S.C. 1817).
- 4 N.Y.—[In re Martin's Will](#), 80 Misc. 17, 141 N.Y.S. 784 (Sur. Ct. 1913).
- 5 Black's Law Dictionary (9th ed.).
- 6 S.C.—[Hays v. Harley](#), 8 S.C.L. 267, 1 Mill 267, 1817 WL 618 (S.C. 1817).
- 7 Ala.—[Darrow v. Darrow](#), 201 Ala. 477, 78 So. 383 (1918) (overruled in part on other grounds by, [Jordan v. Copeland](#), 272 Ala. 336, 131 So. 2d 696 (1961)).
- 8 S.C.—[Hays v. Harley](#), 8 S.C.L. 267, 1 Mill 267, 1817 WL 618 (S.C. 1817).
- 9 Ga.—[Lee v. Byrd](#), 169 Ga. 622, 151 S.E. 28 (1929).

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